

## **REMARKS**

### **Claim Status**

Claims 1-16 are currently pending, with claims 1 and 12 being the only independent claims. Claims 1-16 have been amended. Support for the amendments to claims 1 and 12 may be found, for example, at pg. 3, lines 34-36 and pg. 4, lines 33-35 of the specification as originally filed. No new matter has been added. Reconsideration of the application, as herein amended, is respectfully requested.

### **Information Disclosure Statement**

An information disclosure statement (IDS) was filed on November 15, 2007. Acknowledgment that the IDS and the references cited therein have been entered and considered is requested.

### **Overview of the Office Action**

Claims 1-16 have been objected to because of minor informalities. Withdrawal of the objection is in order, as explained below.

Claims 1, 2, 12, 15 and 16 stand rejected under 35 U.S. C. §102(b) as anticipated by U.S. Publication No. 2002/0172331 ("*Barker*"). Claims 3 and 13 stand rejected under 35 U.S.C. §103(a) as unpatentable over *Barker* in view of U.S. Patent No. 5,313,515 ("*Allen*"). Claims 4 and 14 stand rejected under 35 U.S.C. §103(a) as unpatentable over *Barker* in view of U.S. Patent No. 6,912,271 ("*Tuttle*").

Applicants have carefully considered the Examiner's rejections, and the comments provided in support thereof. For the following reasons, applicants respectfully assert that all claims now pending in the present application are patentable over the cited art.

### **Amendments Addressing Formalities**

The Examiner objected to the phrases “a step” in line 7 and “said step” in line 9 of claim 1, and to the phrase “A method” in line 1 of claims 2-11. Claim 5 was objected to for being in improper multiple dependent form. Claim 12 was objected to based on the phrase “receiving entity” in lines 6 and 7. Claims 13-16 were objected to based on the phrase “A device” in line 1. Lastly, claim 16 was objected to based on the phrase “those recipient” in line 7. In response to these objections, claims 1-16 have been amended in a self-explanatory manner. Withdrawal of each objection is therefore deemed to be in order.

### **Descriptive Summary of the Prior Art**

*Barker* discloses “a telephone message delivering system comprising a call compilation device 140 which includes a processor 141 which receives telephone message delivery data from a sender 100” (see Abstract).

*Allen* discloses “a communications system for connecting a first user terminal to a desired one of a plurality of second user terminals and operable if the system is unable so to connect the first user terminal to store a message from the first user terminal” (see col. 1, lines 39-43).

*Tuttle* discloses “a computer based system of delivering personalized pre-recorded messages to individuals with individualized greetings” (see col. 2, lines 35-37)

### **Summary of the Subject Matter Disclosed in the Specification**

The following descriptive details are based on the specification. They are provided only for the convenience of the Examiner as part of the discussion presented herein, and are not intended to argue limitations which are unclaimed.

The disclosed invention is directed to a method and device for producing sound content, such as an audio element, which is provided to a user such that the user is less likely to worry about the time and cost required to personalize the sound content.

In accordance with the claimed invention, the user is able to produce the sound content without the necessity of connecting to a remote device, such as a telecommunications network. The sound so produced is only included in a message when sound content including the message is sent. As a result, a telephone terminal is only required to access the telephone network for a short period of time to effect actual transmission of the previously produced sound content.

**Patentability of Independent Claims 1 and 12 under 35 U.S.C. §102(b)**

Independent claim 1 has been amended to recite the limitation “wherein said producing of the sound content at the first telephone terminal precedes and is temporally separate from said sending of the sound content by the first telephone terminal, said sound content being included in a message as an element of the message; and wherein said producing of the sound content is performed without requiring connection of the first telephone terminal to a remote device”. Independent claim 12 has been amended to recite the limitation “said sound content being previously produced at the telephone terminal without requiring connection of the telephone terminal to a remote telecommunications device, and wherein said storage entity extracts the sound content contained in the message”.

Thus, independent claims 1 and 12 as now amended respectively define a method and a device for producing sound content, such as an audio element, by a telephone terminal without requiring connection of the telephone terminal to a distant, remote device. Support for the amendments to claims 1 and 12 may be found for example, at pg. 3, lines 34-36 and pg. 4, lines 33-35 of the instant specification. No new matter has been added.

*Barker* (see paragraph [0058]; FIG. 1) discloses a telephone message delivery system in which a sender can produce or compile a sound message without having to store sound data on his telephone. *Barker* (paragraph [0058], lines 4-6) explains that “[t]he sender’s telephone is connected to the public switch telephone network or PSTN (130)”. *Barker* (paragraph [0059], lines 1-4) teaches that a system comprising a call compilation device 140, a playback device 150 and a payment device 120, and the recipient’s telephone 160, are also connected to the PSTN. *Barker* (paragraph [0059], lines 1-4) additionally explains that “[t]he sender is able to telephone the call compilation device 140 via the PSTN”. *Barker* thus teaches that a call compilation device is connected to the sender’s or user’s telephone via the public switch telephone network or PSTN.

*Barker* explains that once connected to the compilation device, the user may select from a menu audio data that is stored on his device to produce sound content storable in a playback device 150 for subsequent replay to the recipient over telephone lines. At paragraph [0008], *Barker* describes that the “system ... allows a sender to select a pre-recorded track from a menu, to be replayed to the recipient over the telephone lines. In this way, no new recording need be made. It is not dependent upon the memory capacity and reproduction capacity of a mobile telephone. A message can be sent to an ordinary fixed telephone. Copyright problems due to the creation of new recordings are avoided.” *Barker* fails to teach or suggest applicants’ step of “producing the sound content and sending said sound content by a first telephone terminal,” where the sound content is included in a message as an element of a message, as recited in independent claim 1.

*Barker* also fails to teach or suggest that the “producing of the sound content is performed without requiring connection of the telephone terminal to a remote/telecommunications device” as respectively recited in now-amended claims 1 and 12. *Barker* expressly teaches that the sender is to “call compilation device 140 via the PSTN” to produce the sound content. *Barker* thus fails to teach or suggest the recited subject matter of

now-amended independent claims 1 and 12 and, accordingly, neither anticipates nor renders unpatentable these claims.

Reconsideration and withdrawal of the rejection of independent claims 1 and 12 as anticipated by *Barker* under 35 U.S.C. §102 are accordingly deemed to be in order, and early notice to that effect is solicited.

Moreover, by virtue of the above-discussed differences between the recitations of amended claims 1 and 12 and the teachings of *Barker*, and the lack of any clear motivation for modifying the reference teachings to achieve applicants' claimed invention, independent claims 1 and 12 are likewise deemed to be patentable over *Barker* under 35 U.S.C. §103.

#### **Patentability of Dependent Claims 3, 4 and 14 over the Prior art Under 35 U.S.C. §103**

The Examiner (at pg. 7 of the Office Action) acknowledges that *Baker* fails to teach or suggest "depositing the message in a telephone user's voice mailbox" as recited in dependent claim 3, and cites *Allen* for this feature. The Examiner (at pg. 8 of the Office Action) also acknowledges that *Baker* fails to teach or suggest "an entity for sending a voicemail greeting for a voice mailbox as the voicemail greeting of that mailbox" as recited in dependent claims 4 and 14, and cites *Tuttle* for this feature.

Applicants, however, contend that no combination of *Baker*, *Allen* and *Tuttle* achieves the subject matter of independent claim 1, from which each of claims 3, 4 and 14 variously depend. There is simply nothing in *Allen* or *Tuttle* to cure the above-discussed deficiencies in *Barker*, e.g., the lack of teachings relating to applicants' claimed producing of the sound content that is performed without requiring connection of the telephone terminal to a remote/telecommunications device.

*Allen* discloses a system in which a call is diverted to a voice messaging center so that the caller can record a voice message upon failure to connect to a desired telephone. *Allen* further teaches that when such a failure occurs, the messaging center transmits a “message waiting” signal to the desired recipient telephone when it registers with a cell of the network (see col. 1, lines 49). *Allen* expressly explains that the voice message is recorded while the caller is connected to the telephone network. Therefore, *Allen* fails to teach or suggest producing of the sound content without connection of the telephone terminal to a remote/telecommunications device. Moreover, *Allen* teaches that the sound content (a voice message) is produced by the caller directly at the voice messaging center. Independent claim 1, moreover, recites the step of “producing the sound content and sending said sound content by a first telephone terminal..., said sound content being included in a message as an element of the message”. *Allen* also fails to teach or suggest this limitation.

*Tuttle*, on the other hand, discloses an automated method for delivering a recorded personalized information message via an automated dialing system onto answering machines without performing any truncations (see Abstract and col. 2, lines 44-48). The *Tuttle* method does not provide anything whatsoever with respect to producing sound content by a telephone terminal in the manner disclosed and claimed by applicants herein.

Each of the cited references thus fails to teach or suggest the express recitations of applicants’ independent claims 1 and 12. Since *Baker*, *Allen* and *Tuttle*, individually or in combination, fail to teach or suggest the features recited in independent claims 1 and 12, dependent claims 3, 4 and 14 are deemed to be patentable based at least on their various dependencies from claims 1 and 12.

### **Dependent Claims**

In view of the patentability of independent claims 1 and 12, and for at least the reasons presented above, each of dependent claims 2-11 and 13-16 is believed to be patentable therewith over the cited art. Each of dependent claims 2-11 and 13-16 additionally includes features that serve to still further distinguish the claimed invention over the applied art.

### **Conclusion**

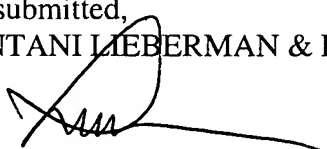
Based on all of the above, applicants submit that the present application is now in full and proper condition for allowance. Prompt and favorable action to this effect, and early passage of the application to issue, are solicited.

Should the Examiner have any comments, questions, suggestions or objections, the Examiner is respectfully requested to telephone the undersigned to facilitate an early resolution of any outstanding issues.

It is believed that no fees or charges are required at this time in connection with the present application. However, if any fees or charges are required at this time, they may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,  
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